

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI  
EASTERN DIVISION

JONATHAN FULCHER

PETITIONER

VS.

CIVIL ACTION NO. 4:03CV211-WHB-JCS

LAWRENCE GREER

RESPONDENT

OPINION AND ORDER

This cause is before the Court on the Objection of Petitioner Jonathan Fulcher to Order of Magistrate Judge James C. Sumner (hereinafter "Objection"). Having considered the Objection, the Court finds that it is not well taken and should be denied.

This case arises out of Fulcher's conviction and sentence by the Circuit Court of Lauderdale County, Mississippi, for the crime of attempted robbery. The conviction occurred on December 21, 1998, and Fulcher was subsequently sentenced as an habitual offender. He received a sentence of life imprisonment without the possibility of parole in the custody of the Mississippi Department of Corrections. After pursuing, but failing to exhaust his state court remedies, Fulcher filed the subject Petition for Writ of Habeas Corpus (hereinafter "Petition") with this Court on June 10, 2003. The procedural history of the case after the Petition was filed is somewhat complex, and need not be set forth herewith.

Regarding Fulcher's Petition, Magistrate Judge James C. Sumner rendered a Report and Recommendation (hereinafter "R and R") on April 5, 2006. The R and R was filed with the Clerk of the Court on the same day under docket entry no. 40. In the R and R, Judge Sumner found that Fulcher's Petition should be denied, and that a Final Judgment should be entered dismissing this case with prejudice. Fulcher timely filed the subject Objection on May 1, 2006. Through the Objection, Fulcher argues that the conclusions reached by Judge Sumner in the R and R were erroneous. The Objection is now ripe for consideration.

Under Federal Rule of Civil Procedure 72(a), a district judge has the authority to review a magistrate judge's order. Upon the filing of an objection to the magistrate judge's order, the district judge must review the order *de novo*. Koetting v. Thompson, 995 F.2d 37, 40 (5th Cir. 1993)(citation omitted); 28 U.S.C. § 636(b). If the contents of the order are found to be clearly erroneous or contrary to the law, the order may be modified or set aside. Fed. R. Civ. P. 72(a).

After reviewing all relevant data, the Court finds that the conclusions reached by Judge Sumner in the R and R were neither clearly erroneous nor contrary to the law. Therefore, the R and R should be adopted and Fulcher's Objection should be denied. This findings requires the dismissal, with prejudice, of Fulcher's Petition.

Based on the holdings presented above:

IT IS THEREFORE ORDERED that the Report and Recommendation of Magistrate Judge (docket entry no. 40) is hereby adopted.

IT IS FURTHER ORDERED that the Objection of Petitioner Jonathan Fulcher to Order of Magistrate Judge (docket entry no. 42) is hereby denied.

IT IS FURTHER ORDERED that Fulcher's Petition for Writ of Habeas Corpus is hereby dismissed, with prejudice. A Final Judgment will be entered.

SO ORDERED this the 2nd day of June, 2006.

s/ William H. Barbour, Jr.  
UNITED STATES DISTRICT JUDGE

tct